

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO. <u>09-</u></b>
<b>v.</b>	<b>:</b>	<b>DATE FILED: <u>March 24, 2009</u></b>
<b>ALEXANDER KHODAK</b>	<b>:</b>	<b>VIOLATIONS:</b>
	<b>:</b>	<b>21 U.S.C. § 846 (conspiracy to distribute</b>
	<b>:</b>	<b>controlled substances - 1 count)</b>
	<b>:</b>	<b>21 U.S.C. § 841(a)(1) (distribution of</b>
	<b>:</b>	<b>controlled substances - 2 counts)</b>
	<b>:</b>	<b>18 U.S.C. § 2 (aiding and abetting)</b>
	<b>:</b>	<b>Notice of forfeiture</b>

**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Defendant ALEXANDER KHODAK was a pharmacist licensed by the Commonwealth of Pennsylvania and was an owner and operator of I&A Bell's Pharmacy at 8508 Bustleton Avenue ("Bell's Pharmacy") and G&A Somerton Pharmacy at 10806 Bustleton Avenue ("Somerton Pharmacy"), Philadelphia, Pennsylvania. Defendant KHODAK was registered as a licensed pharmacist with the Drug Enforcement Administration ("DEA").

2. While defendant ALEXANDER KHODAK operated his pharmacies, he catered to drug dealers and drug addicts such as Stephen Anderson, a/k/a "Stephen McKibben," charged elsewhere, filling for them sham medical prescriptions for frequently abused prescription drugs containing controlled substances. The drug dealers and drug addicts fraudulently obtained the sham prescriptions in their own names and in the names of others from corrupt doctors, such

as Joseph L. Borkson, charged elsewhere, who issued the invalid “prescriptions” for no legitimate medical purpose, and outside the usual course of professional practice.

3. Under federal law, a pharmacist who fills a prescription for a controlled substance has a duty to make sure before filling the prescription that the prescription was issued by a physician for a legitimate medical purpose, and in the usual course of the physician’s professional practice. A prescription that does not meet these requirements is invalid, and a pharmacist may not fill such a prescription.

4. The Controlled Substances Act (“the Act”) governs the manufacture, distribution, and dispensing of controlled substances in the United States. The Act is contained in Title 21 of the United States Code, 21 U.S.C. §§ 801-971.

5. Title 21, United States Code, Section 841, provides that “[e]xcept as authorized, it shall be unlawful for any person to knowingly or intentionally manufacture, distribute, or dispense with intent to manufacture, distribute or dispense, a controlled substance.”

6. Title 21, United States Code, Section 802(10), provides that the term “dispense” means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for delivery.

7. Title 21, United States Code, Section 821, provides that “[t]he Attorney General [of the United States] is authorized to promulgate rules and regulations . . . relating to the registration and control of the manufacture, distribution and dispensing of controlled substances.”

8. The United States Attorney General has exercised his rulemaking authority regarding the dispensing of controlled substances through the promulgation of Title 21, Code of Federal Regulations, Section 1306.04, governing the issuance of prescriptions, which provides:

a prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act [21 U.S.C. § 829] and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the law relating to controlled substances.

9. Pursuant to the Act, there are five schedules of controlled substances, Schedules I, II, III, IV, and V. Controlled substances are scheduled into these levels based upon their potential for abuse, among other things. Abuse of Schedule II controlled substances may lead to severe psychological or physical dependence. Abuse of Schedule III controlled substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of Schedule IV and V controlled substances may lead to more limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

10. Oxycodone is the generic name for an addictive prescription painkiller that is classified under the Act as a Schedule II controlled substance. When oxycodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills to be taken over a short period of time. Brand names for common Schedule II controlled substances containing

oxycodone include Percocet, Endocet, and Roxicet. Oxycodone is also the active ingredient in the brand OxyContin, legitimately prescribed for the treatment of moderate-to-severe pain lasting more than a few days. Because of its controlled release property, each OxyContin tablet contains more of the active ingredient oxycodone and needs to be taken less often than other oxycodone-containing drugs.

11. Hydrocodone is the generic name for an addictive prescription painkiller that is classified under the Act as a Schedule II controlled substance. It is classified as a Schedule III controlled substance when dispensed in amounts of not more than 15 milligrams per dosage unit when combined with other ingredients in recognized therapeutic amounts. When hydrocodone is legally prescribed for a legitimate medical purpose, it is typically used to combat acute, severe pain. Accordingly, the prescription is usually for a modest number of pills to be taken over a short period of time. Brand names for common Schedule III controlled substances containing hydrocodone include Vicodin and Lorcet. Hydrocodone is also found in the Schedule III cough syrup called Tussionex.

12. Alprazolam, more commonly referred to by one of its brand names, Xanax, is the generic name for an addictive prescription sedative and anti-anxiety agent that is classified under the Act as a Schedule IV controlled substance.

13. Promethazine with Codeine, the generic name for a Schedule V narcotic sometimes branded as Phenergan with Codeine, is used for the temporary relief of coughs and upper respiratory symptoms associated with allergy or common cold.

14. From in or about August 2004 through in or about February 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**ALEXANDER KHODAK**

conspired and agreed with Stephen Anderson, a/k/a “Stephen McKibben,” charged elsewhere, and at least one other individual, known to the grand jury, to knowingly and intentionally distribute, not for a legitimate medical purpose, and outside the course of professional practice, mixtures and substances containing detectable amounts of various controlled substances, including oxycodone, a Schedule II controlled substance, hydrocodone, a Schedule III controlled substance, alprazolam, a Schedule IV controlled substance, and codeine, a Schedule V controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(C) and (D).

**MANNER AND MEANS**

It was a part of the conspiracy that:

15. Defendant ALEXANDER KHODAK filled invalid prescriptions for thousands of dosage units of Schedule II, III, IV, and V substances at Bell’s Pharmacy and Somerton Pharmacy, which defendant KHODAK co-owned and operated. These prescriptions were invalid because they had been written by corrupt doctors, such as Joseph L. Borkson, who wrote the prescriptions for no legitimate medical purpose, and outside the usual course of professional practice.

16. From in or around August 2004 through about February 2006, Stephen Anderson regularly brought sham prescriptions, including prescriptions from Borkson, to Bell’s Pharmacy and Somerton Pharmacy to obtain controlled substances.

17. As the on-site pharmacist at Bell’s Pharmacy and Somerton Pharmacy,

defendant ALEXANDER KHODAK was responsible for verifying or checking each prescription filled. Instead, he filled fraudulent prescriptions for regular drug-dealing customers such as Anderson.

18. After filling fraudulent and invalid prescriptions at Bell's Pharmacy or Somerton Pharmacy from defendant ALEXANDER KHODAK, the regular customers either sold the drugs they obtained to others, or abused the drugs themselves.

#### **OVERT ACTS**

In furtherance of the conspiracy and to accomplish its objects, the following overt acts, among others, were committed in the Eastern District of Pennsylvania. Specifically, on or about the following dates, defendant ALEXANDER KHODAK filled, and caused to be filled, fraudulent and invalid prescriptions from Joseph L. Borkson for Stephen Anderson for the following controlled substances and amounts in the following names:

<b><u>OVERT ACT</u></b>	<b><u>DATE</u></b>	<b><u>TABLET</u></b>	<b><u>QUANTITY</u></b>	<b><u>NAME</u></b>
1	8/23/04	Endocet	100 tablets	Edward Thompson
2	9/23/04	Endocet	100 tablets	Edward Thompson
3	10/20/04	Endocet	100 tablets	Teisha Hamilton
4	10/23/04	Endocet	100 tablets	Bill Reid
5	12/6/04	Endocet	100 tablets	Eugene Stevenson
6	12/17/04	Endocet	100 tablets	Dessarrie Anderson
7	12/28/04	Endocet	100 tablets	Damon Green
8	1/7/05	Endocet	100 tablets	Dessarrie Anderson
9	1/10/05	Endocet	100 tablets	Edward Thompson

10	3/23/05	Endocet	100 tablets	Richard Henry
11	3/24/05	Lorcet	100 tablets	Gregory Fortune
12	4/28/05	Endocet	100 tablets	Leslie Thompson
13	5/19/05	Endocet	100 tablets	Damon Green
14	5/20/05	Endocet	100 tablets	Edward Thompson
15	5/27/05	Endocet	100 tablets	Bill Reid
16	6/9/05	Xanax	90 tablets	Dessarrie Anderson
17	8/5/05	Endocet	100 tablets	Teisha Hamilton
18	8/11/05	Endocet	100 tablets	Leslie Thompson
19	9/16/05	Endocet	100 tablets	Dessarrie Anderson
20	12/7/05	Endocet	100 tablets	Bill Reid
21	1/14/06	Tussionex	16 ounces	Teisha Hamilton
22	1/24/06	Promethazine with codeine	12 ounces	Damon Green
23	2/4/06	Endocet	100	Damon Green

All in violation of Title 21, United States Code, Section 846.

**COUNT TWO**

**THE GRAND JURY CHARGES FURTHER:**

On or about October 20, 2004, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**ALEXANDER KHODAK**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Endocet tablets, issued to Stephen Anderson, a/k/a “Stephen McKibben,” in the name “Teisha Hamilton.”

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.



**COUNT THREE**

**THE GRAND JURY CHARGES FURTHER:**

On or about May 19, 2005, in Philadelphia, in the Eastern District of Pennsylvania,  
defendant

**ALEXANDER KHODAK**

knowingly and intentionally distributed and dispensed, and aided, abetted, and willfully caused the distribution and dispensing of, not for a legitimate medical purpose and outside the course of professional practice, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, that is, a prescription for 100 Endocet tablets, issued to Stephen Anderson, a/k/a “Stephen McKibben,” in the name “Damon Green.”

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

## **NOTICE OF FORFEITURE**

### **THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 21, United States Code, Sections 846 and 841(a)(1), set forth in this indictment, defendant

#### **ALEXANDER KHODAK**

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses, including, but not limited to, the following professional licenses:

- (i) Pennsylvania Pharmacist License Number RP036495T;
- (ii) Bell's Pharmacy DEA License Number BI8476308; and
- (iii) Somerton Pharmacy DEA License Number BS9094931;

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to, the sum of \$211,699.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided  
without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to  
seek forfeiture of any other property of defendant's up to the value of the property subject to  
forfeiture.

All pursuant to Title 21, United States Code, Section 853.

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**LAURIE MAGID**  
**United States Attorney**